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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,899	06/25/2001	Gert W. Bruning	US010297 (7790/45)	1204
24737	7590	07/18/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			BORISSOV, IGOR N	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			3639	

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/888,899	BRUNING, GERT W.
	Examiner	Art Unit
	Igor Borissov	3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 May 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Amendment***

Amendment received on 5/06/2005 is acknowledged and entered. Claims 1-13 are currently pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lys et al. (US 6,211,626) in view of Yablonowski et al. (US 6,535,859).

Lys et al. (Lys) teaches a method and system for current control of an LED lightning assembly, comprising:

Independent Claims**Claim 1.**

installing a lighting system for a customer (C. 7, L. 1-4);
measuring the intensity of illumination generated by the lighting system (C. 46, L. 19-22; C. 9, L. 55-58);

wherein change in said illumination is achieved by controlling the amount of current supplied (consumed) to the lighting system (C. 6, L. 60-66), thereby indicating correlation between energy consumed and lumens produced;

and wherein the term "customer" indicates a buyer of a product or service (Dictionary of Business Terms, 3rd edition, by Jack P. Friedman, Ph.D., CPA; 2000; page 159) thereby suggesting the "charging" step.

Lys does not specifically teach determining a customer light usage fee based on the lumens.

Yablonowski et al. (Yablonowski) teaches a method and system for monitoring lighting systems, comprising:

measuring power consumed by the installed system (C. 1, L. 64-65);
determining customer usage fee based on said measurement (C. 1, L. 66 – C. 2, L. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lys to include determining a customer light usage fee based on the power consumed, as disclosed in Yablonowski, because a business needs funds to operate.

Claim 5. Lys teaches:

installing a lighting system for a customer (C. 7, L. 1-4);
measuring changes of light spectrum generated by the lighting system (C. 46, L. 19-22; C. 9, L. 55-58);
wherein change in said light spectrum is achieved by controlling the amount of current supplied (consumed) to the lighting system (C. 6, L. 60-66), thereby indicating correlation between energy consumed and changes in light spectrum produced;

and wherein the term “*customer*” indicates a buyer of a product or service (Dictionary of Business Terms, 3rd edition, by Jack P. Friedman, Ph.D., CPA; 2000; page 159) thereby suggesting the “charging” step.

Lys does not specifically teach determining a customer light usage fee based on the lumens.

Yablonowski teaches a method and system for monitoring lighting systems, comprising:

measuring power consumed by the installed system (C. 1, L. 64-65);
determining customer usage fee based on said measurement (C. 1, L. 66 – C. 2, L. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lys to include determining a customer light usage fee based on the power consumed, as disclosed in Yablonowski, because a business needs funds to operate.

Claim 10. Lys teaches said system, comprising:

means for measuring the intensity of illumination generated by the lighting system (C. 46, L. 19-22; C. 9, L. 55-58);

wherein change in illumination is achieved by controlling the amount of current supplied (consumed) to the lighting system (C. 6, L. 60-66), thereby indicating straight correlation between energy consumed and lumens produced;

and wherein the term "*customer*" indicates a buyer of a product or service (Dictionary of Business Terms, 3rd edition, by Jack P. Friedman, Ph.D., CPA; 2000; page 159) thereby suggesting the "charging" means.

Lys does not specifically teach means for determining a customer light usage fee based on the lumens.

Yablonowski teaches said system for monitoring lighting systems, comprising:

means for measuring power consumed by the installed system (C. 1, L. 64-65); and means for determining customer usage fee based on said measurement (C. 1, L. 66 – C. 2, L. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lys to include means for determining a customer light usage fee based on the power consumed, as disclosed in Yablonowski, because a business needs funds to operate.

Dependent Claims

Claims 2 and 6. Said method wherein the lighting system includes at least one LED (Lys; C. 9, L. 45; and reasoning applied to claims 1 and 5).

Claims 3 and 7. Said method wherein said measuring is conducted by at least one photodiode (Lys; C. 46, L. 4; and reasoning applied to claims 1 and 5).

Claims 4, 8 and 11. Installing an input device to allow customer control of the lighting system (Lys; C. 13, L. 10).

Claim 9. Lys teaches:

measuring changes of light spectrum generated by the lighting system (C. 46, L. 19-22; C. 9, L. 55-58);

installing an input device to allow customer control of the lighting system (Lys; C. 13, L. 10);

wherein change in said light spectrum is achieved by controlling the amount of current supplied (consumed) to the lighting system (C. 6, L. 60-66), thereby indicating correlation between energy consumed and changes in light spectrum produced;

and wherein the term "*customer*" indicates a buyer of a product or service (Dictionary of Business Terms, 3rd edition, by Jack P. Friedman, Ph.D., CPA; 2000; page 159) thereby suggesting the "charging" step.

Lys does not specifically teach determining a customer light usage fee based on the lumens.

Yablonowski teaches said method, comprising: measuring power consumed by the installed system (C. 1, L. 64-65); determining customer usage fee based on said measurement (C. 1, L. 66 – C. 2, L. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lys to include determining a customer light usage fee based on the power consumed, as disclosed in Yablonowski, because a business needs funds to operate.

Claim 12. Lys teaches:

means for measuring changes of light spectrum generated by the lighting system (C. 46, L. 19-22; C. 9, L. 55-58);

wherein change in said light spectrum is achieved by controlling the amount of current supplied (consumed) to the lighting system (C. 6, L. 60-66), thereby indicating correlation between energy consumed and changes in light spectrum produced;

and wherein the term "customer" indicates a buyer of a product or service (Dictionary of Business Terms, 3rd edition, by Jack P. Friedman, Ph.D., CPA; 2000; page 159) thereby suggesting the "charging" means.

Lys does not specifically teach means for determining a customer light usage fee based on the lumens.

Yablonowski teaches said system for monitoring lighting systems, comprising:

means for measuring power consumed by the installed system (C. 1, L. 64-65); and means for determining customer usage fee based on said measurement (C. 1, L. 66 – C. 2, L. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lys to include means for determining a customer light usage fee based on the power consumed, as disclosed in Yablonowski, because a business needs funds to operate.

Claim 13. Lys teaches:

means for selecting a preprogrammed pattern of light to be emitted from the lighting system (C. 13, L. 6-23);

means for measuring changes of light spectrum generated by the lighting system (C. 46, L. 19-22; C. 9, L. 55-58);

wherein change in said light spectrum is achieved by controlling the amount of current supplied (consumed) to the lighting system (C. 6, L. 60-66), thereby indicating correlation between energy consumed and changes in light spectrum produced;

and wherein the term "customer" indicates a buyer of a product or service (Dictionary of Business Terms, 3rd edition, by Jack P. Friedman, Ph.D., CPA; 2000; page 159) thereby suggesting the "charging" means.

Lys does not specifically teach means for determining a customer light usage fee based on the lumens.

Yablonowski teaches said system for monitoring lighting systems, comprising:

means for measuring power consumed by the installed system (C. 1, L. 64-65); and means for determining customer usage fee based on said measurement (C. 1, L. 66 – C. 2, L. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lys to include means for determining a customer light usage fee based on the power consumed, as disclosed in Yablonowski, because a business needs funds to operate.

Response to Arguments

Applicant's arguments filed 5/06/2005 have been fully considered but they are not persuasive.

In response to the applicant's argument that Lys fails to show certain features of applicant's invention, it is noted that the "*intermediary, such as a distributor, or a retailer*" feature upon which applicant relies is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to the applicant's argument that Lys fails to disclose charging a customer a usage fee, the examiner points out that use of the term "customer" indicates a buyer of a product or service (Dictionary of Business Terms, 3rd edition, by Jack P. Friedman, Ph.D., CPA; 2000; page 159) thereby suggesting the "charging" step. Furthermore, Yablonowski teaches determining customer usage fee for using a lightning system (C. 1, L. 66 – C. 2, L. 2).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to

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do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Lys and Yablonowski teach method and system for installing a lighting system for a customer. The motivation to combine the references to include charging a customer a fee for services rendered would be to generate funds for the business to operate.

In response to the applicant's argument that Lys fails to show the installation of the lightning system for the customer, it is noted that Lys does, in fact, teach this feature. Specifically, Lys teaches: "The manner in which the LED unit may be used includes initially placing the modular LED unit having the light module within an environment" (C. 7, L. 1-4).

In response to the applicant's argument that the prior art fails to disclose correlation between energy consumed and changes in light spectrum, it is noted that Lys teaches said system including a modular LED unit and a processor for controlling the amount of current supplied to the LED system so that a particular amount of current supplied to said LED system generates a corresponding color with the color spectrum (C. 6, L. 63 – C. 7, L. 1). As per the specifics of the system, including "*a computer network; the power requirements of network, as well as the inefficiencies in the lighting units and the line resistances*" are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Igor Borissov
Patent Examiner
Art Unit 3629



IB

7/13/2005